

Virginia Board of Pharmacy

INFORMATION REGARDING CANNABIDIOL (CBD)/THC-A OIL IN VIRGINIA

Legislative Timeline

- 2015: provided an affirmative defense for the possession of CBD oil or THC-A oil, initially to alleviate intractable epilepsy.
- 2016 and 2017: authorized the establishment of the 5 pharmaceutical processors to produce and dispense these oils.
- 2018: expanded the use of these oils to any diagnosed condition or disease, upon recommendation from any physician.
- 2019: expanded authority to issue written certifications to nurse practitioners and physician assistants, created “registered agent” registration category, and authorized wholesale distribution of oils between pharmaceutical processors

Pharmaceutical Processors

- In December 2018 the Board of Pharmacy awarded conditional approval to five pharmaceutical processors for the purpose of cultivating Cannabis plants for the production of CBD oil and/or THC-A oil, and to dispense these oils to patients registered by the Board of Pharmacy.
- Five pharmaceutical processors are authorized, one in each health service area
- It is anticipated that each processor will complete construction and request inspection before the end of 2019. Once the inspection is conducted and all requirements have been met by the pharmaceutical processor, a permit will be granted which will allow the processor to begin cultivating, processing and dispensing CBD oil and THC-A oil products. As it may take 3-6 months for product to be available once growing begins, **CBD oil and THC-A oil products are not expected to be available for purchase from the processors in Virginia until Spring/Summer, 2020, at the earliest.**
- **CBD products currently available at retail establishments are likely produced from industrial hemp. The Virginia Department of Agriculture and Consumer Services (VDACS) oversees the industrial hemp program. Questions regarding these products may be directed to VDACS.**

Affirmative Defense

- Although CBD/THC-A oil products are not currently available to purchase in Virginia, patients may have acquired products from other sources.
- Affirmative defense: § 18.2-250.1 C of the Code of Virginia states: In any prosecution under this section involving marijuana in the form of cannabidiol oil or THC-A oil as those terms are defined in § 54.1-3408.3, it shall be an affirmative defense that the individual possessed such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the individual's

diagnosed condition or disease, (ii) if such individual is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease, or (iii) if such individual has been designated as a registered agent pursuant to § 54.1-3408.3, the diagnosed condition or disease of his principal or, if the principal is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's diagnosed condition or disease. If the individual files the valid written certification with the court at least 10 days prior to trial and causes a copy of such written certification to be delivered to the attorney for the Commonwealth, such written certification shall be prima facie evidence that such oil was possessed pursuant to a valid written certification.

Board Registration Process

- Any patient interested in accessing CBD/THC-A oil for treatment or to alleviate the symptoms of any diagnosed condition or disease determined by a practitioner to benefit from such use, must register with the Board of Pharmacy by completing an on-line application process.
- If the patient is a minor or incapacitated adult, the patient's parent or legal guardian must also register with the Board of Pharmacy by completing a separate, on-line application process.
- The patient must provide documentation of identification and legal residence within Virginia.
- A practitioner of medicine or osteopathy licensed by the Board of Medicine, a physician assistant licensed by the Board of Medicine, or a nurse practitioner jointly licensed by the Board of Medicine and the Board of Nursing must diagnose the patient. This practitioner must also be registered as a Practitioner for CBD/THC-A Oil with the Board of Pharmacy. If the practitioner determines that the patient can benefit from the use of CBD/THC-A oil for treatment or to alleviate the symptoms of any diagnosed condition or disease, then the practitioner may provide the patient with a written certification form.
- After receiving a written certification from the prescriber, the patient must submit application to the board for a board registration. Proof of identification and residency, a copy of the written certification form, along with the registration fee must be submitted to the board with the application. An application for the parent/legal guardian must also be submitted when the patient is a minor or incapacitated adult. Once the registration is issued, the patient (and parent/guardian, if applicable) should carry the board registration card and the written certification form any time the patient is in possession of the CBD/THC-A oil product.
- The board registration is valid for one year and must be renewed annually to remain valid. The written certificate is also valid for one year, unless the practitioner indicates a shorter period of time.

Additional Information

- For additional information and updates regarding CBD/THC-A oil, please refer to the Board of Pharmacy website at:
<https://www.dhp.virginia.gov/Pharmacy/PharmaceuticalProcessing/default.htm>
- Updated Information for Patients – July 12, 2019
<http://www.dhp.virginia.gov/pharmacy/newsletters/2019/PharmacyNewsPatient07122019.pdf>
- Updated information for Practitioners – July 12, 2019
http://www.dhp.virginia.gov/pharmacy/newsletters/2019/PharmacyNewsPractitioner_07122019.pdf